

Remarks

This Amendment is in response to the Office Action dated **October 25, 2011**.

Claims 11-12 and 14-20 were rejected under 35 U.S.C. § 101 “as not falling within one of the four statutory categories of invention.”¹ Claim 21 was rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-2, 4-12 and 14-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hearn et al (US 2005/0091522), Wissenbach et al (US 2004/0243772) and Fong et al (US 2005/0050175).

With this response, Applicants have amended claims 11, 14, and 20-21.

Applicants have cancelled claim 12. Claims 1-2, 4-11 and 14-22 are presented for reconsideration and allowance.

Claim Rejections - § 101

Claims 11-12 and 14-20 were rejected under 35 U.S.C. § 101 “as not falling within one of the four statutory categories of invention.” Without acquiescing to the validity of the rejection, Applicants have amended independent claim 11. 35 U.S.C. § 101 recites that “whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” The claimed invention described in claims 11-12 and 14-20 is clearly directed to a statutory process, which is defined in 35 U.S.C. § 100 as “process, art, or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.” Applicants respectfully request that the rejection of these claims be withdrawn.

Claim 21 was rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 21 has been amended to recite “a non-transitory computer readable medium storing a computer software.” Non-transitory computer readable media comprise all computer readable media, with the sole exception being a transitory, propagating signal.

According to the memo from Director David Kappos entitled “Subject Matter Eligibility of Computer Readable Media,” amending the claim to recite a non-transitory computer

¹ Office Action, p. 2.

readable medium should not be considered new matter.

“A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation ‘non-transitory’ to the claim. [...] Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals *per se*. The limited situations in which such an amendment could raise issues of new matter occur, for example, when the specification does not support a non-transitory embodiment because a signal *per se* is the only viable embodiment such that the amended claim is impermissibly broadened beyond the supporting disclosure.”²

Applicants submit that the amendment to recite “a non-transitory computer readable medium” is not new matter in light of the specification. The amended claim is not impermissibly broadened beyond the supporting disclosure. Applicants respectfully request that the rejection of claim 21 be withdrawn.

Claim Rejections - § 103

Claims 1-2, 4-12 and 14-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hearn et al (US 2005/0091522), Wissenbach et al (US 2004/0243772) and Fong et al (US 2005/0050175).

“[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” MPEP § 2142 (citing *KSR International co. v. Teleflex Inc.*, 550 U.S. 398, 418, 82 USPQ2d 1385, 1396 (2007)). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)).

As recited in each of independent claims 1, 11, 21 and 22, there is “a separate data access profile for each user” and each data access profile includes both a master data access profile and a current data access profile for each user.” Thus, as claimed, for every user (normal

² Memorandum from David J. Kappos, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent Office, “Subject Matter Eligibility of Computer Readable Media” (Jan. 26, 2010)(available at http://www.uspto.gov/patents/law/notices/101_crm_20100127.pdf) (last accessed February 27, 2012)(citations omitted).

and super users), there is a data access profile includes two profiles: a master data access profile and a current data access profile. Independent claims 1, 11, 21 and 22 further recite that “if a first user is authenticated as a normal user, the current data access profile of the first user is modifiable by the first user within parameters defined by the master data access profile.”

According to the Office Action, Hearn teaches a database arranged to store a data access profile for each user. As the Office Action admits, Hearn does not teach that each data access profile includes both a master data access profile and a current data access profile.

The Office Action alleges that Wissenbach teaches two types of access profiles for each user, and correctly asserts that the reference “discloses the use of a customize[d] profile (e.g. current data access profile) or default profile (e.g. master access profile) for a particular user.”³. Wissenbach does not teach both a customized profile and a default profile for each user.

In Wissenbach, a system is provided for co-ordinated management of a plurality of system resources, such as host devices and storage servers. A management server 200 is used to manage the system resources and, in particular, to manage users authorized to access the system resources. A database 212 residing in the management server 200 contains records indicating how the host devices and storage volumes are to be managed and identifying particular users. In order to manage the system resources, three tiers are created, each tier being partitioned into “storage areas,” “storage pools” and “storage groups.” A “storage master” (or Super User) is able to allocate the host devices and storage volumes of the system to the tiers and to allocate access restrictions to the tiers. Other super users (e.g. Storage Area Super User, Storage Pool Super User, Storage Group Super User) may also be able to allocate host devices and storage volumes to the perspective tiers.

After allocation of host devices and storage volumes to the desired tiers, each Super User may designate a level of access to different parts of the system that is permitted for other users, such as Monitors and Operators. After the user profiles for each user have been created, the profiles are stored on the management server 200. As an alternative to creating a customized user profile for each user, the Super User may select a default profile instead. *See* Wissenbach, [[0033]]-[[0034]]. This cannot be interpreted as teaching or suggesting a master access profile AND a current data access profile for each user as claimed (i.e. two profiles per

data access profile per user). Wissenbach merely teaches a default profile OR a customized profile for each user (i.e. one profile per data access profile per user).

The Office Action asserts that “Wissenbach’s top tier user profile for the Super User is considered equivalent to applicant’s Master Profile and Wissenbach’s middle tier Super User’s profile is considered to be equivalent to applicant’s current profile on the basis that the user profile of the Super User at the middle tier is a subset of Super User’s profile at the top tier.”⁴ Assuming for the sake of argument that this assertion is valid, the user profile comprising a “master profile” and a “current profile” is only applicable to some Super Users. Thus, even using the Office Action’s interpretation of Wissenbach, the reference would only teach or suggest a master profile and a current profile for Super Users at the top or middle tiers, not every user. As claimed, every user has a master profile and a current profile, even those users who are normal users and not Super Users.

The Office Action further notes that the combination of Hearn and Wissenbach does not teach or suggest that “if a first user is authenticated as a normal user, the current data access profile is modifiable by the first user within parameters defined by the master data access profile.”⁵

Fong does not correct the deficiencies of Wissenbach and Hearn. There is no disclosure in Fong of user access profiles and no disclosure of a master access profile and a current access profile. Fong teaches a single configuration profile where only some of the parameters are modifiable from a master template by the customer. *See* [0022].

While Fong teaches modifying certain parameters of the configuration profile within a master template, Fong does not teach or suggest that a normal user can modify the current configuration profile, as claimed. Typically installation of computer resources is done by an administrator with broad security access to the system. Here, during the first installation of the resource, an allocation request will specify any parameters of the configuration profile which the customer wants modified. [0022]. When the resource is reinstalled later by the same customer, a configuration record for the previous installation can be accessed to provide the values for the parameters of the configuration profile. [0022]. All of the modifications to the configuration

³ Office Action, p. 5. (emphasis added).

⁴ Office Action, p. 12.

profile from a default condition are done at the initial installation of the resource. There is no teaching or suggestion in Fong that this profile can be modified later by a normal user. There is no teaching or suggestion from the combination of Hearn, Wissenbach and Fong that a normal user can modify a current access profile in an access control system.

For at least the reasons presented above, a *prima facie* case of obviousness has not been established. The references either alone or in combination fail to teach or suggest all of the claimed limitations. The rejection of independent claims 1, 11, 21 and 22 should be withdrawn and the claims should be allowed. Claims 2 and 4-10 depend from claim 1, and claims 14-20 depend from claim 11. The rejection of those claims should be withdrawn, and the claims should be allowed.

Conclusion

Applicants assert that claims 1-2, 4-11 and 14-22 are in condition for allowance. Notice to that effect is respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: February 27, 2012

By: /Martha J. Engel/
Martha J. Engel
Registration No.: 61534

6640 Shady Oak Rd., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

f:\wpwork\mje\13340us01_amd_20120227.doc

⁵ Office Action, p. 5.